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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,668	12/22/2000	Kenneth A. Parulski	81268RLW	4659

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EXAMINER

HANNETT, JAMES M

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,668

Applicant(s)

PARULSKI, KENNETH A.

Examiner

James M Hannett

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,12,14-19 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8,10,12,15,16,19,23 and 24 is/are allowed.
- 6) ☒ Claim(s) 14,17,18 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/6/2004 have been fully considered but they are not persuasive. The applicant argues that claim 14 should be allowable because Schreiber is discussed in the applicants "background of the invention", but is not analogous prior art. The applicant further argues that one of ordinary skill in the art would not look to Schreiber for camera features as the examiner has done.

In response to applicant's argument that Schreiber is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Schreiber is related to a color scanner that displays scanned images on a display (40). Schreiber relates to electronic scanning of images using a scanner (24). Because Schreiber relates to the color processing of images captured electronically using a color scanner (24) one of ordinary skill in the art would have been motivated to look at the color scanning art in order to improve the color reproduction of images captured using digital cameras.

The applicant should note that Patent Examiner Matthew L. Rosendale is no longer the examiner assigned to this case. This Office Action and all future Office Actions will be processed by examiner James M. Hannett.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1: Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the method of claim 21" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 21 was canceled by the applicant in the amendment filed 8/6/2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2: Claims 14, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,710,945 Inoue in view of USPN 4,500,919 Schreiber.

3: As for Claim 14, Inoue discloses a camera in Figure 1 comprising a body (not illustrated), and electric imager (15) for capturing an electronic image, a display body (21) operatively connected to the electronic imager (15) for showing the electronic image. Inoue does not teach that the panel has a compensated mode wherein a border of the panel transmits neutral light at a preset first color temperature.

Schreiber teaches a document scanning camera device comprising an electronic image capture unit (24) in Figure 1, a panel in Figure 4 where a border of the panel 44 transmits neutral

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light at a preset first color temperature and a center of the second color temperature is independent of the first color temperature (Column 10, Lines 31-68). As stated by the applicant in the background of the invention, Schreiber propagates the neutral light so as to counter the effects of the ambient lighting and allow the user to view what was captured in the scanned image to determine if the image is correct. Furthermore, because the panel 44 is able to propagate light to be viewed by the user the panel is viewed by the examiner to be non-shielded. If the panel was shielded no light would be able to leave the panel to propagate to the users eyes.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the compensated mode configuration of Schreiber with the image capture/preview system of Inoue so that the user can properly view the reference electronic image to determine whether or not the corresponding image captured on film is acceptable,

4: In regards to Claim 17, It is inherent that the border of Scheiber that circumscribes the center of the panel and is at least as bright as the center. Otherwise the white-compensator would not be able to counteract the affects of ambient illumination as taught on Column 10, Lines 31-68.

5: As for Claim 18, Scheiber Teaches on column 10, Lines 51-68 that the illuminated border is arranged so that the light is blocked in a direction of the display and is able to propagate through a diffused medium (44) in a direction of the comparison image. Therefore, because the light from the lamps is not permitted to spread freely in the direction of the display, part of the light transmitted from the border is viewed by the examiner to be non-diffused.

Allowable Subject Matter

6: Claims 1-8, 10, 12, 15, 16, 19, 23 and 24 are allowed.

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The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or suggest the use of providing a white compensator propagating non-diffused neutral light at a preset color temperature independent of color temperature of the color image to counteract ambient illumination when viewing the electronic image. The prior art further does not teach a white compensator that is positioned relative to the image display to overlap the non-shielded display and the non-diffused neutral light.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hannett whose telephone number is 703-305-7880. The examiner can normally be reached on 8:00 am to 5:00 pm M-F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M. Hannett
Examiner
Art Unit 2612

JMH
January 3, 2005


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
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